

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 441 of 1997

WITH

FIRST APPEAL No 442 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AHMEDABAD MUNICIPAL CORPORATION

Versus

AHMEDABAD DISTRICT COOP.SANGH

Appearance:

MR PRASHANT G DESAI,GP for Appellants

MR BG JANI, for Respondents

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 24/04/98

ORAL COMMON JUDGEMENT(PER : Y.B.BHATT, J)

Appeals admitted. Mr. BG Jani, ld. counsel waives service for the respondents.

2. On the joint request of the ld. counsel for the respective parties, these appeals are taken up for final

hearing today.

3. These appeals have been filed by the Municipal Corporation of Ahmedabad under Sec.411 of the Bombay Provincial Municipal Corporations act, 1949 challenging the decision of the Small Causes court in compensation appeals arising under Sec.391 of the said Act. The lower appellate Court had decided the said appeals under Sec.391 of the said Act for the purpose of determination of the compensation payable to the respondents- original landholders on account of acquisition of the lands acquired by the Municipal Corporation for the purpose of road-widening.

4. The relevant and pertinent facts are as under:-

4.1 The lands bearing survey no.9/A/1/3 and survey no. 9/A/1/4 (in the present appeals respectively) were acquired for the purpose of road-widening. In the first case, 25.00 sq.mts. of lands were acquired out of a plot area of 151.71 sq.mts. whereas in the second appeal, 103.00 sq.mts. of lands were acquired for the said purpose out of plot area of 631.58 sq.mts.

5. The basic question which arises in the present appeals as also in the appeals before the lower appellate Court is determination of the compensation payable to the landholders on account of acquisition and loss of the lands which have been acquired for the purpose of road-widening, reduced by the amount of improvement available to the surviving portion of the plot. After comparing one against the other, the lower appellate Court has determined the net compensation payable to the landholders. It is pertinent to note that for the purpose of computing the first component, namely the loss suffered by the landholders on account of acquisition of a part of survey number held by the landholders, the valuation put by the lower appellate Court in respect of the said lands is at the rate of Rs. 900/ per sq.mt. and it is on this basis that the net compensation has been worked out and then awarded to the land-owners.

6. In this context, our attention has been drawn to an earlier decision of another Bench of this Court in First Appeal No.5240/96 (Coram : J.N.Bhatt & J.R.Vora, JJ) dated 23.12.1997, where the said Bench was dealing with the similar appeal also under Sec.411 of the said Act and specifically dealing with survey no.9/A, which is immediately adjoining and contiguous to the two survey numbers with which we are concerned in the present appeals. In the said decision, while dismissing the

appeals of the Municipal Corporation, the said Bench upheld the valuation arrived at by the lower appellate Court at Rs. 1100/ per sq.mt., on the basis of which the net compensation was awarded to the landholders of that case. Since two survey numbers are immediately contiguous to each other, there is no controversy that the land value in respect of which the present appeal pertain would intrinsically be almost identical. However, it is noticed that the lower appellate Court has fixed the value at Rs. 900/ per sq.mt. and has used this figure as the basis for arriving at the ultimate net compensation payable to the landholders. It immediately becomes obvious that so far as the present appeals are concerned, there is no scope whatsoever for any further reduction in the net compensation as determined by the lower appellate Court.

7. It is also to be noted that the ld. counsel for the appellants has not been able to urge any other point as to how any distinction on facts can be made.

8. Thus on the facts and circumstances of the case, the present appeals for the purpose of reducing the net compensation payable to the land-owners, must be rejected. There is no question of law or principle involved in these appeals. Hence, both the appeals are dismissed with no orders as to costs.

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